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# ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE AND DENYING CERTIFICATE OF APPEALABILITY

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, all of the records herein, and the Report and Recommendation of the United States Magistrate Judge. No objections to the Report and Recommendation have been filed. The Court approves and adopts the Magistrate Judge’s Report and Recommendation. Additionally, for the reasons stated in the Report and Recommendation, the Court finds that Petitioner has not shown that jurists of reason would find it debatable whether the Court was correct in its procedural ruling. As a result, a Certificate of Appealability (“COA”) is denied. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (holding that when a court dismisses a petition on procedural grounds, a COA should issue only when a “prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right *and* that jurists of reason would find it debatable whether the district court was

1 correct in its procedural ruling[ ]”) (emphasis added).

2 Accordingly, IT IS ORDERED THAT:

3 1. Judgment shall be entered dismissing the action with prejudice.

4 2. The Clerk shall serve copies of this Order and the Judgment herein on  
5 the parties.

6 3. A Certificate of Appealability is denied.

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9 DATED: May 12, 2011.

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13 HON. OTIS D. WRIGHT II  
14 UNITED STATES DISTRICT JUDGE  
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